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2 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

YEMISI AKINYEMI,

4

PLAINTIFF,

07-CV-4048 (CM) (AJP)

6

-against-

7

MICHAEL CHERTOFF, SECRETARY,
DEPARTMENT OF HOMELAND
SECURITY.

9

DEFENDANTS.

10

DATE: October 31, 2007

11

TIME: 12:30 p.m.

12

13

EXAMINATION BEFORE TRIAL of the

14

14 Defendants, by a witness, SHARMILA ZAMAN, taken
15 by the Plaintiff, pursuant to a Notice, held at
16 the offices of United States Attorney's Office,
17 Southern District of New York, 86 Chambers
18 Street, New York, New York 10007, before Helen
19 Shum, a Notary Public of the State of New York.

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25

1 S. ZAMAN

2 birth?

3 A. Bangladesh.

4 Q. The name you gave, Sharmila Zaman,
5 is it Zaman or Zaman? How do you pronounce
6 that?

7 A. Zaman.

8 Q. Since when did you begin using that
9 name?

10 A. September 2005 after my divorce.

11 Q. Prior to September 2005, what name
12 did you use?

13 A. H-A-Q, Haq.

14 Q. What's your race for the record?

15 A. Asian.

16 Q. That's Asian as in east Asian?

17 A. Bangladesh is besides India, so
18 India nation.

19 Q. What's your highest level of
20 education?

21 A. College degree, BBA.

22 Q. From what college did you obtain
23 your BBA?

24 A. City University of New York,
25 borough college.

1 S. ZAMAN

2 Q. That's here in Manhattan?

3 A. Yes.

4 Q. Who's your current employer?

5 A. U.S. Customs and Border Protection.

6 Q. Since when did you become employed
7 by the Customs and Border Protection?

8 A. January 5, 2004.

9 Q. I'll call it CBP for short. Is
10 that okay?

11 A. (Indicating.)

12 Q. When you were first hired by CBP,
13 what was your title?

14 A. CBPO.

15 Q. As part of your hiring, were you
16 required to complete a probationary period?

17 A. Yes, I was.

18 Q. When did your probationary period
19 begin?

20 A. January 5, 2004, the starting date.

21 Q. When did your probation end?

22 A. January 5, 2006, two years.

23 Q. What's your current job title?

24 A. CBPO.

25 Q. Who's your current supervisor?

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2 of the shops at Terminal B?

3 A. No.

4 Q. Have you ever seen any officers
5 window-shop there?

6 A. No.

7 MR. CLOPPER: Objection.

8 Ambiguous, but go ahead.

9 Q. Have you ever had occasion to go to
10 any location of the airport beyond TSA
11 screening?

12 A. Have I ever what?

13 Q. The part of the airport where
14 you're assigned for your duties, is that beyond
15 the TSA screening area?

16 A. No. We have separate entrance. We
17 walk through TSA, but that's not part of the
18 public entrance. Walk through TSA, and you can
19 go to your customs area. There is no public
20 place over there.

21 Q. As part of your job, are you
22 required to carry a firearm?

23 A. Yes, I am.

24 Q. Has there ever been an occasion
25 where you left your firearm unattended at the

1 S. ZAMAN

2 airport?

3 A. Yes, there has been.

4 Q. How many times has that occurred?

5 A. Only once.

6 Q. When did that occur?

7 A. I can tell you the month, but I
8 don't remember the date. It's April 2004
9 right after I came back from law enforcement
10 training center, one or two days after I came
11 back from law enforcement training center.

12 Q. April 2004?

13 A. Yes.

14 Q. What make of weapon was that?

15 A. Pardon.

16 Q. What make of weapon was that?

17 A. Glock.

18 Q. Is that an automatic pistol or
19 something else?

20 A. Yes. I have it with me now.

21 Q. It's an automatic weapon?

22 A. Semiautomatic.

23 MR. TALARICO: Can we go off the
24 record a second.

25 (Whereupon, an off-the-record

1 S. ZAMAN

2 discussion was held.)

3 Q. How many rounds does the glock
4 take?

5 A. Seventeen and one on the -- so all
6 together 18, and then extra 17 and 17
7 (indicating).

8 Q. Could you describe the place where
9 you left this gun unattended in April 2004?

10 A. I could. This was training room,
11 something like this, and right outside the
12 training room on Terminal C, there is a
13 restroom. It's within that FIS area, no public
14 entrance, but at the same time, airline
15 Continental reps can get in. Those who have
16 hologram IDs, they can get in through there,
17 and only customs officers but not general
18 public.

19 So after the training was done, I
20 went to the restroom when we were done for that
21 day, and I left the restroom. I was driving
22 home. I got the phone call that if I have my
23 weapon. First I said yes because I was under
24 the impression I had it. Then the person who
25 called me, the trainer, he said check it to

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2 make sure. So I pulled over, checked. It
3 wasn't with me. So the whole thing took place
4 within half an hour.

5 Q. How far were you from the airport
6 at the time that you received this call?

7 A. I was on the tunnel, Lincoln
8 Tunnel. So it's a matter of 20 minutes, 15 to
9 20 minutes.

10 Q. In terms of distance, how far would
11 you say approximately; how many miles?

12 A. From Newark Airport to Lincoln
13 Tunnel, it should be -- how many miles? Three
14 to four miles, five.

15 MR. CLOPPER: Just answer to the
16 best of your ability.

17 Q. To the best of your ability, your
18 estimation. I'm not holding you to it.

19 A. I would say five to seven miles. I
20 know the exact location. I don't know the
21 miles.

22 Q. Now, you said this bathroom where
23 you left it unattended, airlines officials
24 could also access that location?

25 A. Continental people who have

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2 hologram IDs, only those people and customs
3 officers.

4 Q. Who was it that you received this
5 call from?

6 A. Trainer Bruce Wescot.

7 Q. Is that the first and last name?

8 A. Wescot would be the last name.

9 Q. Is it a CBP employee?

10 A. Yes. He was in charge of the
11 training unit.

12 Q. Could you tell us what transpired
13 during this conversation after you realized
14 that you didn't have your weapon? What did you
15 do?

16 A. You want me to explain?

17 Q. Yes.

18 A. Okay. I pulled over, and he said,
19 "We have your weapon. You left it in the
20 restroom." And first thing I asked at that
21 point, "What do I do now? Do I call the cops
22 because my weapon is not with me? What if
23 somebody took it?" He explained right after I
24 left, the airline female, when they saw the
25 weapon there, she notified him -- she notified

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2 him, and he went there, retrieved the weapon.
3 And the reason it took 15 to 20 minutes, from
4 the serial number, he called another trainer
5 who is in charge of firearms and figured out
6 that this is mine. That's the point they
7 called.

8 So the second question I asked,
9 "Did you notify Ms. Fowlkes?" Because at that
10 time, that's the only supervisor I knew. I
11 came in only two days, and Ms. Fowlkes is the
12 training supervisor. He said, "No. Don't
13 worry about it. I took care of it." Then I
14 asked, "What should I do? I don't feel
15 comfortable. I should notify the cops. What
16 if somebody did something with it?" He said,
17 "It's in safe hands." I said, "Can I come
18 back?" He said, "I've been cut," which means
19 he's also done for the day. "It's in the
20 locker. It's going to be with Officer Cararie,
21 the other trainer from the firearms division.
22 Tomorrow morning when you are 8:00 to 4:00 when
23 you come, go and collect it from him." That
24 was that day.

25 Q. So when you went back to work, you

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2 resumed 8:00 to 4:00? That would be 8:00 in
3 the morning to 4:00 in the afternoon?

4 A. (Indicating.)

5 Q. Did you then retrieve your weapon
6 from Officer Cararie?

7 A. Officer Cararie, who's the other
8 trainer, and they explained the gun law and
9 proper handling of weapon.

10 Q. When you say they explained the
11 proper handling of weapon, what exactly did
12 they explain to you?

13 A. I should never take out the weapon
14 from the holster. I should take off the gun
15 belt when I want to take it off. When I came
16 back from FLETC, I used to take the weapon out.
17 I thought I was instructed to totally take out
18 the weapon. He said not to do that, and he
19 went through explaining. So he said, "Don't
20 take the weapon out." I was under the wrong
21 impression.

22 Q. After you retrieved the weapon,
23 what did you do?

24 A. He said, "Go back to the class."
25 So I went back to the class.

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2 Q. For how long did that class last?

3 A. Until four o'clock, normal.

4 Q. When did you finish that particular
5 training?

6 A. That training went on and off for a
7 whole probationary period. It's a periodical
8 thing. At that time, I believe it was two and
9 a half months or three months. This is
10 post-academy training. Then you do customs
11 part, immigration part, different, different.
12 So these whole two years, you have some kind of
13 training going on in-between. You do passenger
14 processing, then again training.

15 Q. On the day that you retrieved your
16 weapon, did you tell Supervisor Fowlkes of what
17 happened?

18 A. No. We don't have direct contact
19 with the supervisor. Trainers are taking
20 between steps. So first day when I got the
21 news, I specifically asked Mr. Wescot. First
22 thing I asked, "Did you notify the cops?"
23 Second thing I say, "Did you notify
24 Ms. Fowlkes," because that's the only
25 supervisor I know. So he say, "Don't worry

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2 about it. I took care of it." So when I saw
3 another trainer getting involved the next day,
4 I took it from another trainer. They said they
5 took care of it. They took care of it.

6 Q. I understand that. The point I'm
7 asking you is did you personally report to --

8 A. No, I did not.

9 Q. Other than the trainers that you
10 mentioned, did you report to any supervisor
11 about what happened to your gun?

12 A. No, I did not.

13 Q. As you sit here today, do you know
14 how many Continental Airlines people with the
15 customs holograph -- did you say holograph ID?

16 A. Hologram.

17 Q. With customs hologram had access to
18 the area where you left your gun?

19 A. No, I don't know.

20 Q. Do you know whether any of these
21 Continental Airlines people had psychiatric
22 problems who had access to that place?

23 A. No. That's why I'm mentioning that
24 these are the people who have access already
25 have hologram. Hologram is something they go

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2 through investigation, background check and

3 every investigation before they get hologram,

4 and that's what let them get into the FIS area.

5 It doesn't apply to every Continental worker,

6 only selected Continental workers get hologram.

7 Q. Since the day when you retrieved
8 your weapon, did anyone at CBP other than the
9 two supervisors that you mentioned, did anyone
10 ever question you concerning your leaving your
11 weapon unattended in that bathroom?

12 A. Yes.

13 Q. When was the first time that anyone
14 questioned you about that?

15 A. Within two months.

16 O. Who was it that questioned you?

17 A. The training supervisor,
18 Ms. Fowlkes. I was called there for
19 investigation.

20 Q. How did you get called to
21 Ms. Fowlkes for an investigation?

22 A. Came to the job. When I signed in,
23 I believe at that point I was told to see
24 Ms. Fowlkes, and I went to see Ms. Fowlkes at
25 her office.

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2 Q. Do you belong to a union?

3 A. Do I belong to a union?

4 Q. Yes.

5 A. Now I do.

6 Q. At the time, did you belong to a
7 union?

8 A. First two years, you can't.

9 Q. Who told you you couldn't belong to
10 a union the first two years?

11 A. That was my understanding. First
12 two years, I thought I couldn't join. As soon
13 as two years was done, I joined the union.

14 Q. Which union are you talking about?

15 A. NTEU.

16 Q. NTEU?

17 A. (Indicating.)

18 Q. So it was your understanding that
19 as a probationary employee, you cannot belong
20 to NTEU?

21 A. That was my understanding at that
22 time.

23 Q. From who did you derive this
24 understanding?

25 A. I don't remember.

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2 Q. At this meeting that you had with
3 Ms. Fowlkes, who else was present?

4 A. There was more than one
5 conversation between me and Ms. Fowlkes.

6 Q. Could you give us the sum and
7 substance of the conversation?

8 A. Yes, I could. She asked what
9 happened. I explained what happened like I
10 explained to you. Then she asked why I didn't
11 notify her. I explained who I notified. I
12 explained that to me, trainer was chain of
13 command. After two days coming out of FLETC,
14 trainer was my chain of command between
15 supervisor and myself as a new trainee. So
16 when trainer say, "I took care of it," that's
17 why I didn't come and tell her.

18 So she went through it, every
19 detail, what happened, how I lost, where I
20 lost, then how I retrieved it, why did it
21 happen like how -- as I explained to you, how I
22 took the gun. I used to take the gun out of
23 the whole belt. She explain again. She gave
24 me a handbook about gun handling procedures.
25 She told me that if any incident happens, first

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2 line supervisor should be notified, not the
3 trainer, which I didn't know at that point, and
4 she went through explaining how to handle the
5 weapons.

6 Q. During that meeting with
7 Ms. Fowlkes, were you taking any notes?

8 A. Was I taking any notes? No.

9 Q. Did you see her taking any notes?

10 A. I don't remember.

11 Q. Were you recording the conversation
12 with her?

13 A. No.

14 Q. Did you see her recording the
15 conversation?

16 A. I don't remember.

17 Q. Do you have a document which
18 would indicate the date that you met with
19 Ms. Fowlkes?

20 A. No, I don't.

21 Q. After your meeting with
22 Ms. Fowlkes, what else happened in relation to
23 this gun issue?

24 A. At the end of the meeting, I asked
25 her like what's the next step because I'm

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1 brand-new. What's the next step? When am I
2 going to get resolved of this investigation?
3 What's going to happen? What could happen?
4 What are the outcomes? So she say she has to
5 follow further details just to investigate me
6 more. So I kept waiting, kept waiting,
7 thinking what could happen, what could happen.
8 Meanwhile, nothing happens for almost one year
9 and up. Then again, I get called by Chief
10 Cardinale.

Q. How do you spell that?

13 A. C-A-R-D-I-N-E-L-E, I believe, or
14 N-A-L-E.

15 Q. You said after more than one year
16 you were called by Chief Cardinale?

17 A. Right.

18 O. What did Chief Cardinale tell you?

19 A. He said, "I'm here to do some
20 factfinding and what took place." So I
21 explained what took place. He asked if t
22 was any 12 or 13 involved, meaning superv
23 or deputy chief involved in it. I explai
24 that I was called by Ms. Carol Fowlkes,
25 whatever went on. I explained everything